

Conversation Record



TO: Karen Lapajenko McGuire

COMPANY: Department of the Army.

Jennifer Bishop
Materials Licensing Branch
U.S. Nuclear Regulatory Commission
Region III
2443 Warrenville Road, Suite 210
Lisle, Illinois 60532-4351
Jennifer.Dalzell-Bishop@nrc.gov

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FAX #: _____

(630) 829-9607 FAX: (630) 515-1078

EMAIL: Karen.I.McGuire4.civ@mail.mil.

CONVERSATION RECORD		TIME	DATE
		2:30 pm	12/11/12
NAME OF PERSON(S) CONTACTED	TELEPHONE NO.	ORGANIZATION	
Karen Lapajenko McGuire	586-282-7635	Radiation Safety Officer	
License No.: Pending		Control No.: 579291	

SUMMARY

This refers to your new license application dated October 10, 2012 and the phone conversation between Karen Lapajenko McGuire and Jennifer Bishop on December 11, 2012.

1. In NRC Form 313, Item 3, "Address of Use," you stated that the address where the material will be used and stored Worldwide by the Department of the Army. The longstanding Commission view is that the agency's regulatory jurisdiction does not extend to U.S. origin nuclear materials or facilities located in foreign countries.

RESPONSE: Please explain where the gauges will be used and how they will be stored and inventoried.

2. In Item 3, "Individual(s) Responsible for Radiation Safety Program and Their Training Experience," you proposed Karen Lapajenko McGuire as the Radiation Safety Officer.

RESPONSE: Please provide the training records of your proposed RSO and provide a copy of the appointing orders from the Commander showing you are qualified and named as the Radiation Safety Officer.

3. It has been noted that an application fee has not been submitted with your application. In order to complete the licensing process, the license application fee will need to be paid.

RESPONSE: Please ensure that the proper license application fee is paid.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice," a copy of this letter and its enclosure will be available electronically for public inspection in the NRC Public Document Room or from the NRC's Agencywide Documents Access and Management System (ADAMS), accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

Action Required:

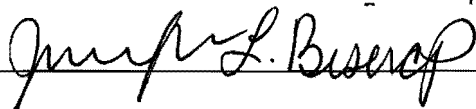
Submit the requested information within 7 calendar days (by December 18, 2012) by referencing control number 579291 to facilitate proper handling in our office. Please contact me if you need to make alternative response arrangements.

PLEASE DIRECT ANY QUESTIONS YOU MAY HAVE TO ME AT (630) 829-9607.

NAME OF PERSON DOCUMENTING
CONVERSATION

SIGNATURE
DATE

Jennifer Bishop



December 11, 2012



UNITED STATES
NUCLEAR REGULATORY COMMISSION
REGION I
475 ALLENDALE ROAD
KING OF PRUSSIA, PENNSYLVANIA 19406-1415

August 1, 2005

Docket No. 03029741

License No. 29-01022-14

Barry J. Silber
Health Physicist
Department of the Army
U.S. Army Communications - Electronics Command
AMSEL-SF-RER
Fort Monmouth, NJ 07703-5024

SUBJECT: NRC JURISDICTION OUTSIDE THE CONTINENTAL UNITED STATES

Dear Mr. Silber:

On May 10, 2005, at a meeting between the Department of the Army and the NRC, you expressed your opinion that NRC has jurisdiction over the use of licensed radioactive material in areas outside the territory of the United States. You stated that your understanding of this matter was based on an NRC memorandum, dated July 16, 1985, titled "NRC's Jurisdiction at U.S. Armed Forces Bases Abroad." You requested clarification of NRC's current position on jurisdiction over the use of licensed material outside U.S. territory.

On June 1, 2005, you provided NRC with a copy of this NRC memorandum (ML051640409 & ML051640415), which was addressed to Vandy Miller, then Chief, Material Licensing Branch, Division of Fuel Cycle and Material Safety, from Thomas Dorian, then Senior Attorney in the Commission's former Office of the Executive Legal Director. The memorandum, regarding an issue with gun sights containing promethium-147 at an Army base in South Korea, describes, in part, an opinion on NRC's territorial and personal jurisdiction regarding use of nuclear materials within the geographical jurisdiction of another country. Specifically, the second paragraph of the memorandum contains a parenthetical statement that, although NRC jurisdiction is normally limited to licensing and regulation of nuclear material within the U.S. and its territories and possessions, "[a]n exception is armed forces bases abroad."

The NRC has reviewed the Dorian memorandum and has determined that the document does not reflect the NRC's current position. Rather, the NRC's position is reflected in a letter dated October 26, 1995 (ML051000009)(enclosed), to Stephen R. Mapley, Chief, Radioactive Waste Disposal Division, Department of the Army Headquarters, from Martin G. Malsch, former Deputy General Counsel, in which Mr. Malsch stated that the NRC has decided as a matter of policy that there is a general principle against applying NRC jurisdiction in other nations and that this general principle extends to U.S. military bases. In conclusion, Mr. Malsch states, "[I]n the case of U.S. Army nuclear materials located outside the U.S., we see no reason to deviate from the longstanding Commission view that the agency's regulatory jurisdiction does not extend to U.S. origin nuclear materials or facilities located in foreign countries. [emphasis added]"

If you have any questions regarding this matter, please call Karl Farrar, Regional Counsel, at 610-337-5301.

B. Silber
Department of the Army

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Thank you for your cooperation.

Sincerely,

Original signed by John D. Kinneman

John D. Kinneman, Chief
Materials Security and Industrial Branch
Division of Nuclear Materials Safety

Enclosure: Letter dated October 26, 1995 (ML051000009)

cc:
Craig Goldberg, Radiation Safety Officer
Stephen G. LaPoint, Director